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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
1. 1997 LAMBORGHINI DIABLO, VIN )  
ZA9RU37P6VLA12636, )  
 )  
2. 2006 PORSCHE CAYENNE TURBO, )  
VIN WP1AC29P96LA91296, )  
 )  
3. \$8,692.42 IN FUNDS SEIZED FROM )  
COMMERCE BANK ACCOUNT )  
HELD IN THE NAME OF PSA, LLC., )  
 )  
4. \$6,314.76 IN FUNDS SEIZED FROM )  
COMMERCE BANK ACCOUNT )  
HELD IN THE NAME OF )  
PHARMACY USA, LLC, AND )  
 )  
5. \$1,076,636.89 IN FUNDS SEIZED )  
FROM TD AMERITRADE ACCOUNT )  
HELD IN NAME OF CHRISTOPHER )  
NAPOLI, )  
 )  
Defendants. )

Case No. C 07-3120 RMW

STIPULATION AND [PROPOSED]  
ORDER RE STAY OF ACTION

1 IT IS HEREBY STIPULATED by and between plaintiff United States of America and  
2 claimants Christopher Napoli, Christine Napoli, Pharmacy USA LLC and PSA LLC, through  
3 undersigned counsel, that this action be stayed pursuant to 21 U.S.C. § 881(j). The parties  
4 contend that a stay of this action is warranted under § 881(j) because the government is presently  
5 conducting an criminal investigation concerning claimant Christopher Napoli and others in  
6 regards to the distribution of controlled substances via the internet. Some of the other targets of  
7 the investigation have been indicted in this district in a case captioned *United States v. Andrew*  
8 *Russo, et al*, CR 06-00748 RMW. The investigation is continuing with respect to Christopher  
9 Napoli. Since the criminal activity at issue in the investigation and related criminal indictment  
10 forms, in large part, the basis for the forfeiture allegations in the government's complaint for  
11 forfeiture in this action, the parties agree that a stay in the forfeiture proceeding is appropriate at  
12 this time in order to preserve the confidentiality of the government's criminal investigation  
13 and Christopher Napoli's right against self-incrimination in the related criminal matter. The  
14 parties thus request that matter be stayed pending resolution of the criminal investigation  
15 concerning Mr. Napoli and that any pending deadlines or assigned dates also be stayed and  
16 vacated.

17 The parties have further agreed that during the period of the Stay, claimants may pursue  
18 discovery from DJ Johnson and NTS Services Corp., 205 Enterprise Drive, Pekin, IL 61554, and  
19 any related person or entity, consistent with what is required under the applicable Federal Rules  
20 of Civil Procedure. Further discovery may be undertaken on different subjects or of unrelated  
21 persons or entities during the period of the stay by agreement of the parties or upon Motion and  
22 further Order.

23 Upon the resolution of the criminal investigation, the parties will notify the Court so that the  
24 forfeiture matter may be set for further status. Alternatively, should the Court wish to set the  
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1 matter for status at this time, the parties request that the matter be set for status in approximately  
2 6 months.

3 DATED: 9/19/07

\_\_\_\_\_/S/\_\_\_\_\_  
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STEPHANIE M. HINDS  
Assistant United States Attorney  
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8 DATED: 9/19/07

\_\_\_\_\_/S/\_\_\_\_\_  
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CHRISTOPHER J. CANNON  
Attorney for Christopher Napoli,  
Christine Napoli, Pharmacy USA, LLC  
and PSA, LLC  
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11  
12  
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14 **[PROPOSED] ORDER RE STAY**

15 Upon the stipulation of counsel, and good cause appearing, IT IS HEREBY ORDERED that  
16 the above-entitled civil forfeiture action is stayed in light of the pending related criminal  
17 investigation of claimant Christopher Napoli.

18 IT IS FURTHER ORDERED that during the period of the stay, the parties may pursue  
19 discovery against the third parties identified above in a manner consistent with the terms of this  
20 stipulation.

21 IT IS FURTHER ORDERED that this matter is continued until \_\_\_\_\_ for status.  
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23

24 DATED:

\_\_\_\_\_  
RONALD M. WHYTE  
United States District Judge  
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26  
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